

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimants**

Bernard S. Epps Revocable Trust and Ginko Epps,  
Trustee of Ginko Shimazu Epps Revocable Trust

v.

NASD Arbitration  
No. 94-00441

**Name of Respondents**

Shearson Lehman Brothers, Jerry Goldberg, and Bruce Hadash

**REPRESENTATION**

For Claimant: Kenneth B. Goodfried, Esq.  
Rubin & Rahe  
Beverly Hills, California

For Respondent: Harry Walters  
Shearson Lehman Brothers, Inc.  
New York, New York

**CASE INFORMATION**

Statement of Claim filed:	February 4, 1994
Claimants' Amended Statement of Claim filed:	November 30, 1994
Claimants' Submission Agreement signed:	February 1, 1994
Joint Statement of Answer filed by Respondent:	April 26, 1994
Respondent Jerry Goldberg's Submission Agreement signed:	March 1, 1994
Respondent Bruce Hadash's Submission Agreement signed:	March 23, 1994

### **HEARING INFORMATION**

Pre-Hearing Conference Date / Session: June 22, 1995 (1 session)

Hearing Dates / Sessions: August 8, 1995 (2 Sessions)  
August 9, 1995 (2 Sessions)  
August 10, 1995 (2 Sessions)  
August 11, 1996 (1 session)  
May 8, 1996 (2 Sessions)  
May 9, 1996 (2 Sessions)

Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimants alleged that Respondents engaged in securities fraud, deceptive practices, inappropriate trades and churning. Claimants further alleged that Respondent Shearson failed to supervise the individual brokers and monitor the accounts of the Bernard Epps Trust and the Ginko Epps Trust, knowingly allowed and encouraged the churning, unauthorized and inappropriate transactions carried out by the individual brokers, ratified said transactions, and sought to conceal, cover-up and misrepresent the facts of the conduct of the individual brokers.

### **RELIEF REQUESTED**

Claimants sought compensatory damages and punitive damages for a total claim between \$560,000.00 and \$5,000,000.00

Respondents asked that the claim be dismissed in its entirety and that they be awarded the costs and fees associated with defending the claim.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in either counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Shearson Lehman Brothers and Jerry Goldberg are jointly and severally liable and shall pay Claimant Bernard S. Epps Revocable Trust the sum of \$358,810.49
2. All of Claimant Ginko Shimazu Epps, Trustee of Ginko Shimazu Epps Revocable Trust's claims are denied in their entirety.
3. Claimants' request for punitive damages is denied in its entirety.
4. The parties shall each bear their respective costs, including attorney's fees.

### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

One Pre-hearing Conference @ \$300.00/session	=	\$ 300.00
Eleven Hearing Sessions @ \$1,000.00/session	=	\$11,000.00
<u>Total Fees Assessed</u>	=	<u>\$11,300.00</u>

Claimants' one-half share	=	\$ 5,650.00
<u>Credit for hearing session deposit</u>	=	<u>\$ 1,000.00</u>
<u>Claimants' Balance Due</u>	=	<u>\$ 4,650.00</u>

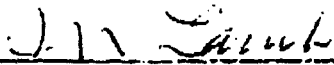
<u>Respondents' one-half share</u>	=	<u>\$ 5,650.00</u>
<u>Respondents' Balance Due</u>	=	<u>\$ 5,650.00</u>

Fees are payable to the National Association of Securities Dealers, Inc.

**ARBITRATORS**

<u>Name</u> .....	<u>Public / Industry</u>
James N. Lamb	Public Arbitrator
John H. Norberg, III	Industry Arbitrator
Herbert M. Schoenberg	Public Arbitrator

**Concurring Arbitrators' Signatures**

  
James N. Lamb

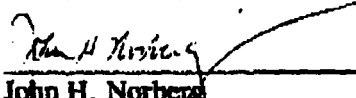
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John H. Norberg

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Herbert M. Schoenberg

Date of Decision: \_\_\_\_\_

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
James N. Lamb	Public Arbitrator
John H. Norberg, III	Industry Arbitrator
Herbert M. Schoenberg	Public Arbitrator

Concurring Arbitrators' SignaturesJames N. LambJohn H. NorbergHerbert M. SchoenbergDate of Decision: May 3<sup>rd</sup>

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<u>Name</u>	<u>Public / Industry</u>
James N. Lamb	Public Arbitrator
John H. Norberg, III	Industry Arbitrator
Herbert M. Schoenberg	Public Arbitrator

Concurring Arbitrators' Signatures

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James N. Lamb

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John H. Norberg

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*Herbert M. Schoenberg*  
Herbert M. SchoenbergDate of Decision: May 30, 1996